

## Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2013

*Introduced into the Senate on 13 March 2013*

*By: Senator Siewert*

### Summary of committee view

1.77 The committee seeks further information in relation to how the differential treatment of different groups of Newstart recipients is justifiable and consistent with the rights to equality and non-discrimination.

### Overview

1.78 This bill seeks to:

- amend the *Social Security Act 1991* to provide for:
  - a \$40 a week supplementary payment for single parents receiving Newstart payments; and
  - the income test for single parents receiving Newstart to be the same as the income test for single parents receiving Parenting Payment.
- amend the *Fair Work Act 2009* to provide for an enforceable right to request flexible work arrangements for people with caring responsibilities, including single parents.

### Compatibility with human rights

1.79 The bill is accompanied by a self-contained statement of compatibility which provides that the bill engages the right to social security under article 9 of the International Covenant of Economic, Social and Cultural Rights (ICESCR) and the right to work under articles 6 and 7 of the ICESCR.

#### *Right to social security*

1.80 The statement of compatibility provides:

The Bill will promote the right to social security by increasing the amount of financial support for certain recipients of Newstart and providing a more appropriate income test for single parents.<sup>34</sup>

1.81 In relation to this aspect of the bill, the amendments may also be seen as contributing to the enjoyment of the right to an adequate standard of living which is guaranteed by article 11 of the ICESCR.

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34 Statement of compatibility, p 1.

### *Equality and non-discrimination*

1.82 Similarly to the committee's comments in its Third Report of 2013<sup>35</sup>, applying the proposed increases only to single parents (and not partnered parents) raises the issue of equality and non-discrimination in the enjoyment of rights.<sup>36</sup> As single parents are being treated differently on the basis of their 'status' as a single parent, this differential treatment must be demonstrated to have an objective and reasonable justification to be consistent with the rights to equality and non-discrimination. The statement of compatibility does not state why single parents are to be selected for increased payments over other groups. The second reading speech for the bill gives some clue, as Senator Siewert stated 'Single parent families living on Newstart are the most disadvantaged families in Australia'. However, no evidence is given to show that this is the case or to demonstrate that single parents are worse off than partnered parents or people without children.

**1.83 The committee intends to write to Senator Siewert to seek further information in relation to how the differential treatment of different groups of Newstart recipients is justifiable and consistent with the rights to equality and non-discrimination.**

### *Right to work*

1.84 In relation to the provisions of the bill that would enable people with caring responsibilities to have an enforceable right to request flexible work arrangements, the statement of compatibility provides:

The Bill will promote the right to work by providing additional rights to carers for flexible work arrangements to ensure they can stay in employment.<sup>37</sup>

1.85 The UN Economic, Social and Cultural Rights Committee has stated that States parties to the ICESCR should adopt national employment strategies that 'must take particular account of the need to eliminate discrimination in access to employment'<sup>38</sup> and:

Private enterprises - national and multinational - while not bound by the Covenant, have a particular role to play in job creation, hiring policies and non-discriminatory access to work.<sup>39</sup>

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35 See PJCHR, *Third Report of 2013*, pp 52-53, relating to the Social Security Legislation Amendment (Caring for People on Newstart) Bill 2013.

36 As guaranteed by article 2(1) of ICESCR and article 26 of the International Covenant on Civil and Political Rights which guarantee equality and non-discrimination in the enjoyment of human rights.

37 Ibid.

38 CESCR, General Comment No. 18: The Right to Work, E/C.12/GC/18, para 44.

39 Ibid para 52.

**1.86 The bill, in providing a right for an employee with caring responsibilities to request flexible work arrangements, appears to promote the right to work under articles 6 and 7 of the ICESCR.**